

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

VALERIE MCDONALD,  
 Plaintiff(s),

Case No. 2:22-cv-01379-RFB-NJK

v.

**ORDER**

EXPERIAN INFORMATION SOLUTIONS,  
 INC.,  
 Defendant(s).

Pursuant to 28 U.S.C. § 1915 Plaintiff is proceeding in this action *pro se* and has requested authority pursuant to 28 U.S.C. § 1915 to proceed *in forma pauperis*. Docket No. 1. Plaintiff also submitted a complaint. Docket No. 1-1.

**I. In Forma Pauperis Application**

Plaintiff filed the affidavit required by § 1915(a). Docket No. 1. Plaintiff has shown an inability to prepay fees and costs or give security for them. Accordingly, the request to proceed *in forma pauperis* will be granted pursuant to 28 U.S.C. § 1915(a). The Clerk's Office is further **INSTRUCTED** to file the complaint on the docket. The Court will now review Plaintiff's complaint.

**II. Screening the Complaint**

Upon granting an application to proceed *in forma pauperis*, courts additionally screen the complaint pursuant to § 1915(e). Federal courts are given the authority to dismiss a case if the action is legally "frivolous or malicious," fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). When a court dismisses a complaint under § 1915, the plaintiff should be given leave to amend the complaint with directions as to curing its deficiencies, unless it is clear from the face of the

1 complaint that the deficiencies could not be cured by amendment. *See Cato v. United States*, 70  
2 F.3d 1103, 1106 (9th Cir. 1995).

3 Rule 12(b)(6) of the Federal Rules of Civil Procedure provides for dismissal of a complaint  
4 for failure to state a claim upon which relief can be granted. Review under Rule 12(b)(6) is  
5 essentially a ruling on a question of law. *See Chappel v. Lab. Corp. of Am.*, 232 F.3d 719, 723  
6 (9th Cir. 2000). A properly pled complaint must provide a short and plain statement of the claim  
7 showing that the pleader is entitled to relief. Fed. R. Civ. P. 8(a)(2); *Bell Atlantic Corp. v.*  
8 *Twombly*, 550 U.S. 544, 555 (2007). Although Rule 8 does not require detailed factual allegations,  
9 it demands “more than labels and conclusions” or a “formulaic recitation of the elements of a cause  
10 of action.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Papasan v. Allain*, 478 U.S. 265,  
11 286 (1986)). The court must accept as true all well-pled factual allegations contained in the  
12 complaint, but the same requirement does not apply to legal conclusions. *Iqbal*, 556 U.S. at 679.  
13 Mere recitals of the elements of a cause of action, supported only by conclusory allegations, do  
14 not suffice. *Id.* at 678. Secondly, where the claims in the complaint have not crossed the line from  
15 conceivable to plausible, the complaint should be dismissed. *Twombly*, 550 U.S. at 570.  
16 Allegations of a *pro se* complaint are held to less stringent standards than formal pleadings drafted  
17 by lawyers. *Hebbe v. Pliler*, 627 F.3d 338, 342 & n.7 (9th Cir. 2010) (finding that liberal  
18 construction of *pro se* pleadings is required after *Twombly* and *Iqbal*).

19 Plaintiff alleges that she disputed the accuracy of a bankruptcy notation on her credit report  
20 and that Defendant denied that dispute on several occasions. *See, e.g.*, Docket No. 1-1 at ¶¶ 11,  
21 17. Plaintiff eventually discerned that the information furnisher was LexisNexis, who notified her  
22 that the bankruptcy could not be verified and that it was removed from their system. *Id.* at ¶ 15.  
23 Nonetheless, Defendant continued to deny Plaintiff’s disputes on several additional occasions. *See*  
24 *id.* at ¶¶ 17-18. On May 16, 2022, Plaintiff disputed the bankruptcy notation for the fifth time and  
25 threatened legal action against Defendant, at which time the notation was finally removed from  
26 her credit report. *See id.* at ¶ 19. Plaintiff alleges that Defendant’s course of conduct violated 15  
27 U.S.C. § 1681i(a) because Defendant negligently or willfully failed to conduct a reasonable  
28 reinvestigation into whether the disputed information was accurate. *See id.* at ¶ 20. Plaintiff

1 alleges that Defendant's violation led to damage to her creditworthiness and, by extension,  
 2 impaired her ability to provide for her family. *See id.* at ¶ 24. Particularly given Plaintiff's status  
 3 as a *pro se* litigant, the Court finds that the complaint sufficiently alleges a cause of action for  
 4 screening purposes. *Cf. White v. Navy Federal Credit Union*, 2018 WL 3729510, at \*6 (S.D. Cal.  
 5 Aug. 3, 2018) (denying motion to dismiss based on similar allegations).<sup>1</sup>

### 6 **III. Conclusion**

7 Accordingly, **IT IS ORDERED** that:

- 8 1. Plaintiff's request to proceed *in forma pauperis* is **GRANTED**. Plaintiff shall not be  
 9 required to pay the filing fee. Plaintiff is permitted to maintain this action to conclusion  
 10 without the necessity of prepayment of any additional fees or costs or the giving of a  
 11 security therefor. This order granting leave to proceed *in forma pauperis* shall not  
 12 extend to the issuance and/or service of subpoenas at government expense.
- 13 2. The Clerk's Office is **INSTRUCTED** to file Plaintiff's complaint on the docket.
- 14 3. The Clerk of the Court shall issue summons to Defendant, and deliver the same to the  
 15 U.S. Marshal for service. The Clerk of the Court shall also deliver a copy of the  
 16 complaint to the U.S. Marshal for service.
- 17 4. Plaintiff shall have twenty days in which to furnish the U.S. Marshal with the required  
 18 Form USM-285.<sup>2</sup> Within twenty days after receiving from the U.S. Marshal a copy of  
 19 the Form USM-285, showing whether service has been accomplished, Plaintiff must  
 20 file a notice with the court identifying whether defendant was served. If Plaintiff  
 21 wishes to have service again attempted on an unserved defendant, a motion must be

22  
 23 <sup>1</sup> The Court screens the complaint without the benefit of the adversarial process. *Buchheit*  
 24 *v. Green*, 705 F.3d 1157, 1161 (10th Cir. 2012). Nothing in this order should be construed as  
 precluding the filing of a motion to dismiss.

25 A complaint is subject to dismissal at the screening stage if it fails to state "*a claim on*  
 26 *which relief may be granted.*" 28 U.S.C. § 1915(e)(2)(B)(ii) (emphasis added). Hence, it suffices  
 27 to survive screening that Plaintiff has stated one claim. *See, e.g., Bem v. Clark Cty. Sch. Dist.*,  
 2015 WL 300373, at \*3 n.1 (D. Nev. Jan. 21, 2015). It appears that Plaintiff is also attempting to  
 bring other claims through the complaint. The Court express no opinion as to the sufficiency of  
 the pleading as to other claims.

28 <sup>2</sup> The USM-285 form is available at [www.usmarshals.gov/process/usm285.pdf](http://www.usmarshals.gov/process/usm285.pdf).

1 filed with the Court identifying the unserved defendant and specifying a more detailed  
2 name and/or address for said defendant, or whether some other manner of service  
3 should be attempted.

4 5. Pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, service must be  
5 accomplished within 90 days from the date this order is entered.

6 6. From this point forward, Plaintiff shall serve upon Defendant, or, if appearance has  
7 been entered by counsel, upon the attorney(s), a copy of every pleading, motion, or  
8 other document submitted for consideration by the court. Plaintiff shall include with  
9 the original papers submitted for filing a certificate stating the date that a true and  
10 correct copy of the document was mailed to Defendant or counsel for Defendant. The  
11 Court may disregard any paper received by a District Judge or Magistrate Judge that  
12 has not been filed with the Clerk, and any paper received by a District Judge, Magistrate  
13 Judge, or the Clerk that fails to include a certificate of service.

14 IT IS SO ORDERED.

15 Dated: November 22, 2022

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19 Nancy J. Koppe  
20 United States Magistrate Judge  
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